In the Supreme Court of the United States

OCTOBER TERM, 1956

No. 249

ARTHUR GOODMAN, ET AL., PETITIONERS

v.

UNITED STATES OF AMERICA

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT

BRIEF FOR THE UNITED STATES IN OPPOSITION

OPINIONS BELOW

The opinion of the District Court (Pet. App. 1–9) is reported at 131 F. Supp. 712. The opinion of the Court of Appeals (Pet. App. 10–23) is reported at 230 F. 2d 139.

JURISDICTION

The judgment of the Court of Appeals was entered on February 13, 1956. On May 11, 1956, by order of the Chief Justice, the time for filing a petition for a writ of certiorari was extended to and including July 12, 1956. The petition for a writ of certiorari was filed on July 12, 1956. The jurisdiction of this Court is invoked under 28 U. S. C. 1254 (1).

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QUESTION PRESENTED

Whether, in the circumstances of this case, both lower courts erred in finding that the United States, as owner of the U. S. N. S. *Haiti Victory*, was free from fault in a collision of the *Haiti Victory* with petitioner's vessel, *The Duke of York*.

STATUTES AND REGULATIONS INVOLVED

Articles 16 and 29 of the International Rules governing navigation are set forth at pages 2–3 of the petition.

STATEMENT

Petitioners are passenger claimants in limitation proceedings brought by the United States as owner of the U. S. N. S. *Haiti Victory* (hereafter called *Haiti*), seeking exoneration or limitation of liability resulting from a collision of the *Haiti* with the overnight ferry, *Duke of York* (hereafter called *Duke*). The petition seeks review of that portion of a judgment of the Court of Appeals affirming an order of the District Court exonerating the *Haiti* from all liability resulting from the collision. The circumstances surrounding the collision, which was found by both lower courts to be solely caused by the fault of the *Duke*, are set forth in the Government's brief in opposition to a petition filed by the *Duke's* owner in *British Transport Commission* v. *United States*, No. 247, as well as in the opinions of the Court of Appeals and District Court (Pet. App. 1–23), to which we respectfully refer.

ARGUMENT

The instant petition involves substantially the same issue as questions 2 and 3 (parts II and III) of the petition filed in *British Transport Commission* v. *United States, supra,* pages 24–46.

For the reasons stated at pages 5–9 of our brief in opposition to that petition, it is respectfully submitted that this petition likewise should be denied.

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